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May 9, 2011

The Honorable Edward R. Korman
Senior United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *United States v. Joseph Yannai*, CR 10-594 (ERK)

Your Honor:

The defendant moves, pursuant to Fed. R. Evid. 412(c)(1)(A), to offer evidence that the eight named complainants engaged in consensual sexual conduct with Mr. Yannai. Mr. Yannai is charged, among other things, with inducing women to travel to his home so that he could force them to engage in sexual conduct with him. The defense contends that any sexual contact between Mr. Yannai and the women was consensual. The defense intends to question the complainants about all of their sexual encounters with Mr. Yannai.

Since the government's position seems to be that none of the sexual conduct engaged in by the complainants was consensual, the defendant's proffered questions will not implicate Fed. R. Evid. 412(a), which prohibits the introduction of "[e]vidence offered to prove that any alleged victim engaged in *other* sexual behavior." (Emphasis added.) However, in an excess of caution, the defendant now specifically moves to elicit testimony from government witnesses that they engaged in consensual sexual conduct with Mr. Yannai. Though most of this conduct occurred after the women arrived in New York, two specific encounters occurred before the women involved arrived:

- 1) One of the government's complaining witnesses, G.L., had a consensual sexual relationship with Mr. Yannai in France prior to her traveling to New York to live and work in Mr. Yannai's home.
- 2) Another one of the government's complaining witnesses, A.K., had a consensual sexual relationship with Mr. Yannai in Washington, D.C. prior to her traveling to New York to live and work in Mr. Yannai's home.

The defense intends to present this evidence to show that, to the extent that sexual relations were a motivating factor in Mr. Yannai's decision to invite these women to live with him, his sole intent was to continue consensual sexual relations. The defense is aware of its obligation to notify these witnesses personally regarding our intent to inquire about this information. *See* Fed. R. Evid. 412(c)(1)(B) However, if the government prefers to notify its witnesses, we ask that they relieve the defense of that obligation.

Thank you for your attention to this matter.

Respectfully submitted,

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cc: Clerk of the Court (by ECF)
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